

Page 5 of 6

REMARKS

By this amendment claims 1, 2, 3, 4, 12, 20 through 23 and 27 have been cancelled and claims 5, 10, 13 to 15, 18, 19 and 24 amended. Claims 5 through 11, 13 to 19 and 24 though 26 remain in the application. Re-examination and reconsideration of the application as amended are requested.

Claims 1 to 4 and 20 to 22 stand rejected under 35 USC 102(e) as being anticipated by Kaplan et al. (U.S. 6,456,594). The Examiner will note that claims 1 through 4 and 20 through 23 have been cancelled.

Claims 5 to 19 and 23 to 27 stand rejected under 35 USC 103(a) as being unpatentable over Kaplan in view of Nelson et al. (U.S. Published Application 2003/0147381).

Reconsideration of this rejection in view of the claim amendments submitted herewith is respectfully requested.

As set out in the present application an important aspect of the invention is the concept of monitoring a connection over the diverse media after the connection has been established. A lookup table is provided in the desk top/computer which sets out rerouting criteria including monitoring conditions and improvement thresholds for dropping the current transmission media and rerouting the call over an alternative media. The monitoring is conducted either on a set interval or on a periodic basis. The Examiner will note that the claims in the application have been amended to include a second lookup table which stores rerouting criteria as well as monitoring and rerouting aspect of the invention.

It is respectfully submitted that the references relied on by the Examiner do not provide this functionality. Although Kaplan et al. does provide a user with an opportunity to customize weights given to each of the variables and to override fixed parameter weights these are done at call setup. As set out in column 3 lines 17 to 20 "The switching system further comprises input means for allowing a user to change the user priorities in the third memory prior to transmitting a file" (underlining added).

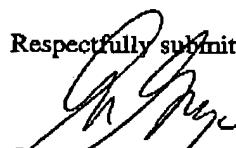
Thus, in Kaplan et al. the switching system selects a route based on a set of criteria and once the connection is completed the route is used until the call is terminated. The present invention provides a system wherein even after a connection has been completed it is periodically monitored for the purpose of determining if there exists an alternative media which would provide improved service as set out in rerouting criteria. If an alternative medium is detected and if the end system recognizes it and if they are compatible the connection is rerouted seamlessly to the alternative media for the duration of the connection or until a further alternative is detected. It is submitted that Kaplan et al. does not teach or remotely suggest the concept of monitoring an existing connection and rerouting the connection through a different route if there is sufficient improvement in the criteria, provided by the different route. Nelson et

Page 6 of 6

al. does not teach or suggest such a procedure and it is submitted therefore that the references whether taken singularly or in combination do not suggest the invention as now claimed in this application.

In view of the foregoing it is believed that the application is in condition for allowance. Favourable reconsideration and action to this end is earnestly solicited.

Respectfully submitted,


George M. MacGregor, Reg. No. 37,547
Marks & Clerk
P.O. Box 957, Station B
280 Slater Street, Suite 1800
Ottawa, Ontario, Canada
K1P 5S7

Telephone No.: (613) 236.9561
Facsimile No.: (613) 230-8821